

**DOCKET NO. 2007-0032-IWD**  
**General Permit No. TXG340000**

**IN THE MATTER OF THE RENEWAL  
OF THE TPDES GENERAL PERMIT WITH  
CHANGES TO AUTHORIZE  
DISCHARGES OF FACILITY  
WASTEWATER, CONTACT STORM  
WATER, AND STORM WATER FROM  
REGULATED INDUSTRIAL ACTIVITIES  
FROM PETROLEUM BULK STATIONS  
AND TERMINALS  
WITHIN THE STATE OF TEXAS**

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**BEFORE THE TEXAS  
COMMISSION ON  
ENVIRONMENTAL  
QUALITY**

**COMMISSION RESOLUTION ISSUING THE RENEWAL OF THE GENERAL  
PERMIT WITH CHANGES**

**WHEREAS**, under Texas Water Code (TWC) Section (§) 26.121, no person may discharge waste or pollutants into or adjacent to any water in the state except as authorized by a rule, permit, or order issued by the Texas Commission on Environmental Quality (TCEQ or Commission);

**WHEREAS**, under TWC § 26.027, the TCEQ has the authority to issue permits and amendments to permits for the discharge of waste or pollutants into or adjacent to waters in the state;

**WHEREAS**, under TWC § 26.040, the TCEQ has the authority to issue a general permit to authorize the discharge of waste into or adjacent to waters in the state;

**WHEREAS**, renewal of General Permit (TXG340000) with changes that authorizes discharges of facility wastewater, contact storm water, and storm water from petroleum bulk stations and terminals, and their associated facilities in the state of Texas was drafted and proposed by the Executive Director and is attached as Exhibit A;

**WHEREAS**, the TCEQ received public comment on the general permit;

**WHEREAS**, the Executive Director made certain changes to the general permit based on comments received;

**WHEREAS**, the Executive Director prepared, made available to the public, and filed with the Chief Clerk a written Response to Public Comments on the proposed General Permit in accordance with the requirements of 30 Texas Administrative Code (30 TAC) § 205.3(e) and is attached as Exhibit B;

**WHEREAS**, the Commission has reviewed in accordance with Texas Natural Resources Code § 33.205 and 30 TAC § 205.5(f) the changes to the General Permit for consistency with the

Texas Coastal Management Program (CMP) and has found that the General Permit is consistent with applicable CMP goals and policies and that the General Permit will not adversely affect any applicable coastal natural resource areas as identified in the CMP;

**WHEREAS**, the Commission has determined in accordance with TWC § 26.040(a)(1)-(4) that the General Permit would authorize dischargers who engage in the same or substantially similar types of operations, discharge the same types of waste, are subject to the same requirements regarding effluent limitations or operating conditions, and are subject to the same or similar monitoring requirements;

**WHEREAS**, the Commission finds in accordance with TWC § 26.040(a)(5) that the General Permit would apply to dischargers who are more appropriately regulated under a general permit than under individual permits and that:

(A) The General Permit has been drafted to assure that it can be readily enforced and that the Commission can adequately monitor compliance with the terms of the general permit; and

(B) The category of discharges covered by the General Permit will not include a discharge of pollutants that will cause significant adverse effects to water quality;

**THEREFORE**, after consideration of all public comment and the responses to such comment, the Commission, by this resolution, hereby issues the General Permit, attached as Exhibit A, as recommended by the Executive Director and as approved by the Commission during its April 11, 2007, public meeting. The Commission, by this resolution, also hereby issues the Executive Director's Response to Comments as approved by the Commission during its April 11, 2007, public meeting as the Commission's Response to Public Comment, attached as Exhibit B.

Furthermore, the Commission directs staff to make any non-substantive changes to the general permit and the Commission's Response to Public Comment to satisfy Texas Register format requirements and requests that the general permit and Commission's Response to Public Comment be made available to the public in accordance with the requirements of TWC § 26.040(d) and 30 TAC § 205.3(e).

It is so **RESOLVED**.

Date of Adoption:

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

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Kathleen Hartnett White, Chairman

## Exhibit A



TPDES GENERAL PERMIT  
NO. TXG340000

This permit supersedes and replaces  
TPDES General Permit No. TXG340000,  
issued on July 26, 1999.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
P.O. BOX 13087  
Austin, TX 78711-3087

GENERAL PERMIT TO DISCHARGE WASTES

under provisions of  
Section 402 of the Clean Water Act  
and Chapter 26 of the Texas Water Code

Facility wastewater, contact storm water, and storm water associated with industrial activities may be discharged from petroleum bulk stations and terminals, located in the state of Texas,

into or adjacent to water in the state, including exceptional, high, intermediate, limited or no significant aquatic life use receiving waters as designated in the Texas Surface Water Quality Standards

only according to effluent limitations, monitoring requirements and other conditions set forth in this general permit, as well as the rules of the Texas Commission on Environmental Quality (TCEQ), the laws of the State of Texas, and other orders of the Commission of the TCEQ (Commission). The issuance of this general permit does not grant to the permittee the right to use private or public property for conveyance of wastewater along the discharge route. This includes property belonging to, but not limited to, any individual, partnership, corporation or other entity. Neither does this general permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire property rights as may be necessary to use the discharge route.

This general permit and the authorization contained herein shall expire at midnight five years after the date of issuance.

ISSUED AND EFFECTIVE DATE:

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For the Commission

**TPDES GENERAL PERMIT NUMBER TXG340000 RELATING TO DISCHARGES OF  
FACILITY WASTEWATER AND CONTACT STORM WATER  
FROM PETROLEUM BULK STATIONS AND TERMINALS**

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**Part I. Definitions**

**Contact storm water** - For the purposes of this general permit, storm water, including storm water from secondary containment areas, that has come into contact with facility wastewater.

**Daily average limitations** - The arithmetic average of results of analyses for a parameter from a minimum of four samples of the discharges that occur in a single calendar month. When results of analyses of four samples are not available in a single calendar month, the arithmetic average of the most recent results, not to exceed four, must be reported as the daily average concentration.

**Daily maximum limitations** - The maximum concentration, by grab sample, measured on a single day within a single calendar month.

**Discharge** - Deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit, or suffer any of these acts or omissions.

**Existing facility** - A petroleum bulk storage and terminal facility authorized by the existing general permit prior to the issuance of this permit renewal.

**Facility waste water** - Tank bottom water, tank condensates, loading rack wash water, and similar water that has come into contact with the contents of bulk storage tanks.

**General permit** - A permit issued under the provisions of 30 TAC, Chapter 205 authorizing the discharge of waste into or adjacent to water in the state for one or more categories of waste discharge within a geographical area of the state or the entire state as provided by TWC §26.040.

**Grab sample** - An individual sample collected in less than 15 minutes.

**Municipal separate storm sewer system (MS4)** - A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) Owned or operated by the United States, a state, city, town, borough, county, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under § 208 of the CWA; (ii) Designed or used for collecting or conveying storm water; (iii) Which is not a combined sewer; and (iv) Which is not part of a publicly owned treatment works (POTW) as defined at 40 CFR § 122.2; (v) Which does not include very discrete systems such as those serving individual buildings. See also 40 CFR 122.26 (b)(4), (7), and (16).

**New facility** - A petroleum bulk storage and terminal facility not currently authorized by this general permit prior to issuance of this permit renewal.

**Notice of change or NOC** - A written submission to the executive director from a permittee authorized under a general permit, providing information on changes to information previously provided to the commission, or any changes with respect to the nature or operations of the facility or the characteristics of the discharge.

**Notice of intent or NOI** - A written submission to the executive director from an applicant notifying their intent to discharge or dispose of waste under the provisions of a general permit.

**Notice of termination or NOT** - A written submission to the executive director from a permittee authorized under a general permit notifying their intent to cease the discharge or disposal of waste under the provision of a general permit.

**Operator** - The person responsible for the overall operation of a facility.

**Owner** - The person who owns a facility or part of a facility.

**Permittee** - Any person issued an individual permit or order or covered by a general permit.

**Storm Water Associated with Industrial Activities** - For the purposes of this general permit, storm water runoff from areas where vehicle maintenance activities occurs at petroleum bulk stations and terminals.

**Texas Pollutant Discharge Elimination System (TPDES)** - The state program for issuing, amending, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements, under Clean Water Act §§307, 402, 318, and 405, the Texas Water Code and Texas Administrative Code regulations.

**Water in the state** - Groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico, inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or nonnavigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.

## **Part II. Permit Applicability and Coverage**

### **Section A. Discharges Covered**

1. The purpose of this general permit is to regulate the discharge of facility wastewater, contact storm water, and storm water associated with industrial activities from petroleum bulk stations and terminals.

### **Section B. Limitations on Coverage**

1. Separate authorization may be required for discharges into or adjacent to water in the state, located within ten stream miles upstream of the Edwards Aquifer recharge zone, as defined in 30 Texas Administrative Code (TAC), Chapter 213 (relating to Edwards Aquifer).

2. Discharges are not eligible for authorization by this general permit where prohibited by:
  - (a) 30 TAC, Chapter 311 (relating to Watershed Protection);
  - (b) 30 TAC, Chapter 213 (relating to the Edwards Aquifer); or
  - (c) Any other applicable rules or laws.
3. New sources or new discharges of the constituent(s) of concern to impaired waters are not authorized by this permit unless otherwise allowable under 30 TAC, Chapter 305 and applicable state law. Impaired waters are those that do not meet applicable water quality standard(s) and are listed on the Clean Water Act § 303(d) list. Constituents of concern are those for which the water body is listed as impaired.

Discharges of the constituent(s) to impaired water bodies for which there is a TMDL implementation plan are not eligible for this permit unless they are consistent with the approved TMDL and the implementation plan. The executive director may amend this general permit or develop a separate general permit for discharges to these water bodies. For discharges not eligible for coverage under this permit, the discharger must apply for and receive an individual or other applicable general TPDES permit prior to discharging.

4. This general permit does not apply to discharges into or adjacent to water in the state from facilities that are regulated by the Railroad Commission of Texas, including crude oil facilities.
5. The executive director shall deny an application for authorization under this general permit, and may require that the applicant apply for a Texas Pollutant Discharge Elimination System (TPDES) individual permit, if the executive director determines that the discharge will not maintain existing uses of receiving waters and for other factors according to 30 TAC Chapter 205 (relating to General Permits for Waste Discharges). Additionally, the executive director may cancel, revoke, or suspend authorization to discharge under this general permit based on a finding of historical and significant noncompliance with the provisions of this general permit. Denial of authorization to discharge under this general permit or suspension of a permittee's authorization under this general permit shall be done according to commission rules in 30 TAC Chapter 205 (relating to General Permits for Waste Discharges).

### **Section C. Application for Coverage**

1. All applicants seeking authorization to discharge under this general permit must submit a completed Notice of Intent (NOI) on a form approved by the Executive Director. Existing discharges authorized under the expiring general permit are required to submit a new NOI within 90 days of issuance of the general permit to continue authorization. The NOI shall include at a minimum the legal name and address of the owner and operator, the facility name and address, specific description of the location of the discharge, type of facility or discharges, and the name of the receiving water.
2. Submission of an NOI is an acknowledgment that the conditions of this general permit are applicable to the proposed discharge, and that the applicant agrees to comply with the conditions of this general permit. Provisional authorization to discharge under the terms and conditions of this general permit begins 48 hours after a completed NOI is postmarked for delivery to the TCEQ. The NOI must be



TPDES General Permit TXG340000

submitted to the address indicated on the NOI form. If TCEQ provides for electronic submittal of NOIs during the term of this general permit, provisional authorization begins 24 hours following receipt of the electronic NOI form by the TCEQ unless restricted by Part II, Section C.3. Following administrative review of the NOI, the executive director shall either acknowledge coverage by providing an authorization number to the applicant or notify the applicant that coverage under this general permit is denied. Applicants seeking authorization to discharge to a municipal separate storm sewer system must provide a copy of the NOI to the operator of the system at the same time an NOI is submitted to the TCEQ.

3. For discharges located within ten stream miles upstream of the Edwards Aquifer recharge zone, applicants must also submit a copy of the NOI to the appropriate TCEQ regional office.

Counties:

Comal, Bexar, Medina,  
and Kinney

Contact:

TCEQ  
Water Program Manager  
San Antonio Regional Office  
14250 Judson Rd.  
San Antonio, Texas 78233  
(210) 490-3096

Counties:

Williamson, Travis, Hays

Contact:

TCEQ  
Water Program Manager  
Austin Regional Office  
1921 Cedar Bend Dr., Ste. 150  
Austin, Texas  
(512) 339-2929

4. Authorization under this general permit is not transferable. If the owner or operator of the regulated entity changes, the present owner and operator must submit a Notice of Termination (NOT) and the new owner and operator must submit an NOI. The NOT and NOI must be submitted not later than 10 days prior to the change in owner or operator status. Any change in a permittee's Chapter Number, as registered with the Texas Secretary of State, is considered a change in ownership of the company and would require the new owner and operator to apply for permit coverage as stated above. If the NOT and NOI are submitted as required under this provision, there will be no lapse in authorization for this facility.
5. If the owner or operator becomes aware that it failed to submit any relevant facts, or submitted incorrect information, in an NOI, the correct information must be provided to the executive director in a Notice of Change (NOC) within 14 days after discovery. If relevant information provided in the NOI changes (for example, phone number or P.O. Box number) an NOC must be submitted within 14 days of the change.

#### **Section D. Termination of Coverage**

A permittee shall terminate coverage under this general permit through the submittal of a Notice of Termination (NOT), on a form approved by the executive director, when the owner or operator of the facility changes, the discharge becomes authorized under an individual permit, the use of the property

changes and is no longer subject to regulation under this general permit, or the discharge becomes unnecessary, is delayed, or is completed. Authorization to discharge terminates at midnight on the day that an NOT is postmarked for delivery to the TCEQ.

**Section E. Authorization Under a TPDES Individual Permit**

1. Discharges eligible for authorization by this general permit may alternatively be authorized by an individual permit according to 30 TAC, Chapter 305 (relating to Consolidated Permits).
2. When an individual permit is issued for a discharge, that is currently authorized under this general permit, the permittee shall submit an NOT to the executive director.
3. Discharges from facilities currently authorized by a TPDES individual permit, and discharges from facilities currently authorized under another TPDES general permit, may only be authorized under this TPDES general permit if the following conditions are met:
  - (a) the discharges meet the applicability and eligibility requirements for coverage under this general permit;
  - (b) the current individual permit does not contain numeric water quality-based effluent limitations for the discharge (unless the discharges that resulted in the limitations have ceased and any contamination that resulted in these limitations is removed or remediated);
  - (c) the executive director has not determined that continued coverage under an individual permit is required based on consideration of a total maximum daily loading (TMDL) model, anti-backsliding policy, history of substantive non-compliance, or other site-specific considerations;
  - (d) a previous application or permit for the discharge has not been denied, terminated, or revoked by the executive director as a result of enforcement or water quality related concerns. The executive director may provide a waiver to this provision based on new circumstances at the facility, or if there is a new facility owner or operator; and
  - (e) the applicant requests cancellation of the existing TPDES individual permit within 30 days after notice that authorization under this general permit is effective.
4. Discharges from new outfalls at petroleum bulk stations and terminals authorized under a TPDES individual permit, or under a separate TPDES general permit, may be authorized under this general permit if the following conditions are met:
  - (a) the proposed discharges meet the applicability and eligibility requirements for coverage under this general permit;
  - (b) the current individual permit does not contain numeric water quality-based effluent limitations for discharges that are similar in nature to the proposed discharge (unless the discharges that resulted in the limitations have ceased and any contamination that resulted in these limitations is removed or remediated);

- (c) the executive director has not determined that coverage under an individual permit is required based on consideration of a total maximum daily loading (TMDL) model, history of substantive non-compliance, or other site-specific considerations; and
- (d) a previous application or permit for the proposed discharge has not been denied, terminated, or revoked by the executive director as a result of enforcement or water quality related concerns. The executive director may provide a waiver to this provision based on new circumstances at the facility, or if there is a new facility owner or operator.

#### **Section F. Permit Expiration**

1. This general permit is effective from the date of issuance for a term of five years, unless otherwise amended, revoked, or cancelled by the commission prior to that date. Authorizations for discharge under the provisions of this general permit may be issued until the expiration date of the permit. This general permit may be amended, revoked, or cancelled by the commission after notice and comment as provided by 30 TAC §§ 205.3 and 205.5.
2. If the executive director proposes to reissue this general permit before the expiration date, the general permit shall remain in effect after the expiration date for those existing discharges covered by the general permit in accordance with 30 TAC, Chapter 205. The general permit shall remain in effect for these dischargers until the date on which the commission takes final action on the proposal to reissue this general permit. No new NOIs will be accepted or new authorizations honored for authorization under the general permit after the expiration date.
3. Upon issuance of a renewed or amended general permit, all facilities, including those covered under the expired general permit, will be required to submit an NOI according to the requirements of the new general permit, obtain a TPDES individual permit, or obtain a TLAP for those discharges.
4. According to 30 TAC § 205.5 (d) (relating to Permit Duration, Amendment, and Renewal), if the commission has made a determination that the general permit will not be renewed at least 90 days before the expiration date, permittees authorized under this general permit shall submit an application for an individual or alternative general permit before the expiration date. If the application for an individual or alternative general permit is submitted before the general permit expiration date, authorization under this expiring general permit remains in effect until the issuance or denial of an individual or alternative general permit.

### **Part III. Permit Requirements**

#### **Section A. Numeric Effluent Limitations**

1. Eligible discharges of facility wastewater and contact storm water are subject to the following effluent limitations:

<u>Parameter</u>	<u>Daily Maximum Limitations</u>	<u>Sample Type</u>	<u>Monitoring Frequency</u>
Flow	Report MGD	Estimate	1/day
Total Petroleum Hydrocarbons	15 mg/l	Grab	1/week (1)(2)
Benzene	0.05 mg/l	Grab	1/week (1)(2)
BETX (3)	0.5 mg/l	Grab	1/week (1)(2)
Lead, total (Interim) (4)	0.25 mg/l	Grab	1/week (2)(6)
Lead, total (Final) (6)	0.10 mg/l (7)	Grab	1/week (1)(2)(5)
Lead, total (Final) (6)	0.02 mg/l (7)	Grab	1/week (1)(2)(5)
MTBE (Interim) (4)(8)	Report	Grab	1/week (2)(9)
MTBE (Final) (8)(6)	0.24 mg/l	Grab	1/week (1)(2)(9)
pH	6.0 - 9.0 Std. Units	Grab	1/week (1)(2)

- (1) If compliance with the effluent limitation is demonstrated for a period of two consecutive years, the minimum monitoring frequency may be reduced to once per two weeks upon the permittee's submission of a certification of such compliance. This certification must be made in writing to the TCEQ's Industrial Permits Team (MC 148). If a subsequent noncompliance occurs, the monitoring frequency shall revert to once per week.
- (2) For a discharge consisting solely of contact storm water, the sample must be obtained within 60 minutes after discharge begins.
- (3) The sum of benzene, toluene, ethylbenzene and xylenes.
- (4) Interim limits and/or monitoring requirements are effective beginning upon date of issuance of the general permit and lasting for three years. The interim limits are **only applicable** to existing facilities, as defined in Part I. Definitions of this permit. Final limitations apply to all new facilities.
- (5) The monitoring frequency for total lead will be once per year upon the permittee's certification in the Notice of Intent (NOI) that none of the substances stored at the facility include refined petroleum products or petroleum fuels containing lead or lead additives. If at a later date, refined petroleum products or petroleum fuels containing lead or lead additives are stored, the permittee must notify the executive director and the monitoring frequency for total lead will become once per week.
- (6) Final limits are effective at the time of permit issuance for new facilities as defined in Part I, Definitions. Final limits are effective for existing facilities, as defined in Part I, Definitions, three years from date of issuance and lasting through permit expiration.

- (7) The final daily maximum effluent limitation for total lead is 0.02 mg/l for discharges in the following counties: Anderson, Angelina, Camp, Cass, Cherokee, Collin, Franklin, Gregg, Hardin, Harrison, Henderson, Hopkins, Houston, Hunt, Jasper, Jefferson, Kaufman, Liberty, Marion, Morris, Shelby, Smith, Titus, Trinity, Tyler, Upshur, Van Zandt, or Wood. For discharges in all other counties in the state, the final limitation is 0.10 mg/l.
- (8) MTBE is methyl tertiary-butyl ether.
- (9) The monitoring frequency for MTBE will be once per year upon the permittee's certification in the NOI that none of the substances at the facility include refined products or petroleum fuels containing MTBE. If at a later date, refined petroleum products or petroleum fuels containing MTBE are found at the facility, the permittee must notify the executive director and the monitoring frequency for MTBE will become once per week.

2. All eligible discharges are subject to the following effluent limitations:

<u>Parameter</u>	<u>Monthly Average Limitations</u>	<u>Daily Maximum Single Grab Limitation</u>	<u>Sample Type</u>	<u>Monitoring Frequency</u>
Arsenic, total	0.1 mg/l	0.3 mg/l	Grab	1/year
Barium, total	1.0 mg/l	4.0 mg/l	Grab	1/year
Cadmium, total (inland waters)	0.05 mg/l	0.2 mg/l	Grab	1/year
Cadmium, total (tidal waters)	0.1 mg/l	0.3 mg/l	Grab	1/year
Chromium, total	0.5 mg/l	2.0 mg/l	Grab	1/year
Copper, total	0.5 mg/l	2.0 mg/l	Grab	1/year
Manganese, total	1.0 mg/l	3.0 mg/l	Grab	1/year
Mercury, total	0.005 mg/l	0.01 mg/l	Grab	1/year
Nickel, total	1.0 mg/l	3.0 mg/l	Grab	1/year
Selenium, total (inland waters)	0.05 mg/l	0.2 mg/l	Grab	1/year

<u>Parameter</u>	<u>Monthly Average Limitations</u>	<u>Daily Maximum Single Grab Limitation</u>	<u>Sample Type</u>	<u>Monitoring Frequency</u>
Selenium, total (tidal waters)	0.1 mg/l	0.3 mg/l	Grab	1/year
Silver, total	0.05 mg/l	0.2 mg/l	Grab	1/year
Zinc, total	1.0 mg/l	6.0 mg/l	Grab	1/year

### Section B. Whole Effluent Toxicity Testing for Discharges Into Fresh Receiving Waters

There shall be no acute toxicity as determined by requiring greater than 50% survival in 100% effluent using a 24-hour acute toxicity test on discharges of facility wastewater and contact storm water. Monitoring shall be once per year using a composite sample.

#### 1. Scope and Methodology

- (a) The following test species shall be used: *Daphnia pulex* and *pimephales promelas* (Fathead minnow). Acute static nonrenewal 24-hour toxicity tests must be conducted using "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms" (EPA/600/4-90/027F) or the latest update thereof. A minimum of 5 replicates with 8 organisms per replicate must be used in the control and in each effluent dilution of this test.
- (b) The permittee shall test the effluent for lethality in accordance with the provision of this section. In addition to the use of an appropriate control (0% effluent), testing will determine if an effluent sample meets the requirement of greater than 50% survival of the appropriate test organisms in 100 % effluent of a 24-hour period.
- (c) The results of testing shall be submitted on the Discharge Monitoring Report (DMR).

#### 2. Required Toxicity Testing Conditions

- (a) Control/Dilution Water - Control and/or dilution water shall normally consist of a standard, synthetic, moderately hard, reconstituted water of similar pH and alkalinity to the closest downstream perennial water.
- (b) Control Survival - If more than 10 % of the test organisms in any control die within 24 hours, that test, including the control and the 100 % effluent, shall be repeated with all results from both tests reported as required in Item 3 (Reporting) of this section.
- (c) Repeat Test - The permittee shall repeat a test, including the control and all effluent dilutions, if the procedures and quality assurance requirements defined in the test methods or in this general permit are not satisfied. A repeat test shall be conducted within the required reporting period of any test determined to be invalid, in accordance with Part 2. (Required Toxicity Testing Conditions) of this section.

- (d) Sample Collection and Preservation - Samples shall be collected at a point following the last treatment unit. One flow-weighted composite sample representative of normal operating flows will be collected from each outfall, and a discrete test will be run on each composite sample. Samples shall be chilled to 4 degrees Centigrade during collection, shipping, and/or storage. The toxicity tests must be initiated within 36 hours after collection of the sample. The composite sample must be collected such that the sample is representative of a periodic episode of chlorination, biocide usage, or other potentially toxic substance discharged on an intermittent basis.

If the Outfall ceases discharging during the collection of the effluent composite sample, the requirements for the minimum number of effluent portions are waived. However, the permittee must have collected a composite sample volume sufficient for completion of the required test. The abbreviated sample collection, duration, and methodology must be documented in the full report required in Part 3 of this Section.

### 3. Reporting

- (a) The permittee shall prepare a full report of the results of all tests conducted, regardless of whether the tests are valid, invalid, completed, or not completed. The report shall be retained for a minimum of three years and must be made available upon request of the executive director.
- (b) Enter the following codes on the DMR for the appropriate parameters for valid tests only:
  - (1) For the water flea, Parameter TIE3D, enter a "0" if mean survival at 24 hours is greater than 50% in 100% effluent; if the mean survival at 24 hours is less than or equal to 50%, enter a "1".
  - (2) For the flathead minnow, Parameter TIE6C, enter a "0" if mean survival at 24 hours is greater than 50% in 100% effluent; if the mean survival at 24 hours is less than or equal to 50%, enter a "1".
- (c) Enter the following codes on the DMR for retests only:
  - (1) For retest number 1, Parameter 22415, enter a "0" if the mean survival at 24-hours is greater than 50% in 100% effluent; if the mean survival is less than or equal to 50%, enter a "1".
  - (2) For retest number 2, Parameter 22416, enter a "0" if the mean survival at 24-hours is greater than 50% in 100% effluent; if the mean survival is less than or equal to 50%, enter a "1".

### 4. Persistent Mortality

The requirements of this Part apply when a toxicity test demonstrates significant lethality, here defined as a mean mortality of 50% or greater to organisms exposed to the 100% effluent concentration after 24-hours.

- (a) The permittee shall conduct 2 additional tests (retests) for each species that demonstrates significant lethality. The two retests shall be conducted once per week for 2 weeks. Five effluent dilution concentrations in addition to an appropriate control shall be used in the retests. These additional effluent concentrations are 6%, 13%, 25%, 50% and 100% effluent. The first retest shall be conducted within 15 days of the laboratory determination of significant lethality. The retests shall also be reported on the DMRs as specified in Part 3(b). The permittee shall prepare a full report of the results of all tests conducted, regardless of whether the tests are valid, invalid, completed, or not completed. The report shall be retained for a minimum of three years and must be made available upon request of the executive director.
- (b) If one or both of the two retests specified in item 4.a. demonstrates significant lethality, the permittee shall submit the failing test results to the Water Quality Assessment Section, MC-150, within 20 days of test completion of the second retest, for evaluation to determine if further action is required. Test completion is defined as the 24th hour.

### Section C. Whole Effluent Toxicity Testing for Discharges Into Marine Receiving Waters

There shall be no acute toxicity as determined by requiring greater than 50% survival in 100% effluent using a 24-hour acute toxicity test on discharges of facility wastewater and contact storm water. Monitoring shall be once per year using a composite sample.

#### 1. Scope and Methodology

- (a) The following test species shall be used: *Mysidopsis bahia* (Mysid Shrimp) and *menidia beryllina* (Inland Silverside Minnow). Acute static nonrenewal 24-hour toxicity tests must be conducted using "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms" (EPA/600/4-90/027F) or the latest update thereof. A minimum of 5 replicates with 8 organisms per replicate must be used in the control and in each effluent dilution of this test.
- (b) The permittee shall test the effluent for lethality in accordance with the provision of this section. In addition to the use of an appropriate control (0% effluent), testing will determine if an effluent sample meets the requirement of greater than 50% survival of the appropriate test organisms in 100 % effluent of a 24-hour period.
- (c) The results of testing shall be submitted on the DMR.

#### 2. Required Toxicity Testing Conditions

- (a) Control/Dilution Water - Control and/or dilution water shall normally consist of a standard, synthetic, reconstituted seawater.
- (b) Control Survival - If more than 10% of the test organisms in any control die within 24 hours, that test, including the control and the 100 % effluent, shall be repeated with all results from both tests reported as required in Item 3 (Reporting) of this section.



- (c) Repeat Test - The permittee shall repeat a test, including the control and all effluent dilutions, if the procedures and quality assurance requirements defined in the test methods or in this general permit are not satisfied. A repeat test shall be conducted within the required reporting period of any test determined to be invalid, in accordance with Part 2. (Required Toxicity Testing Conditions) of this section.
- (d) Sample Collection and Preservation - Samples shall be collected at a point following the last treatment unit. One flow-weighted composite sample representative of normal operating flows will be collected from each outfall, and a discrete test will be run on each composite sample. Samples shall be chilled to 4 degrees Centigrade during collection, shipping, and/or storage. The toxicity tests must be initiated within 36 hours after collection of the sample. The composite sample must be collected such that the sample is representative of a periodic episode of chlorination, biocide usage, or other potentially toxic substance discharged on an intermittent basis.

If the Outfall ceases discharging during the collection of the effluent composite sample, the requirements for the minimum number of effluent portions are waived. However, the permittee must have collected a composite sample volume sufficient for completion of the required test. The abbreviated sample collection, duration, and methodology must be documented in the full report required in Part 3 of this Section.

### 3. Reporting

- (a) The permittee shall prepare a full report of the results of all tests conducted, regardless of whether the tests are valid, invalid, completed, or not completed. The report shall be retained for a minimum of three years and must be made available upon request of the executive director.
- (b) Enter the following codes on the DMR for the appropriate parameters for valid tests only:
  - (1) For the mysid shrimp, Parameter TIE3E, enter a "0" if the mean survival at 24 hours is greater than 50% in 100% effluent; if the mean survival at 24 hours is less than or equal to 50%, enter a "1".
  - (2) For the inland silverside, Parameter TIE6B, "0" if the mean survival at 24 hours is greater than 50% in 100% effluent; if the mean survival at 24 hours is less than or equal to 50%, enter a "1".
- (c) Enter the following codes on the DMR for retests only:
  - (1) For retest number 1, Parameter 22415, enter a "0" if the mean survival at 24-hours is greater than 50% in 100% effluent; if the mean survival is less than or equal to 50%, enter a "1".
  - (2) For retest number 2, Parameter 22416, enter a "0" if the mean survival at 24-hours is greater than 50% in 100% effluent; if the mean survival is less than or equal to 50%, enter a "1".

#### 4. Persistent Mortality

The requirements of this Part apply when a toxicity test demonstrates significant lethality, here defined as a mean mortality of 50% or greater to organisms exposed to the 100% effluent concentration after 24-hours.

- (a) The permittee shall conduct 2 additional tests (retests) for each species that demonstrates significant lethality. The two retests shall be conducted once per week for 2 weeks. Five effluent dilution concentrations in addition to an appropriate control shall be used in the retests. These additional effluent concentrations are 6%, 13%, 25%, 50% and 100% effluent. The first retest shall be conducted within 15 days of the laboratory determination of significant lethality. The retests shall also be reported on the DMRs as specified in Part 3(b). The permittee shall prepare a full report of the results of all tests conducted, regardless of whether the tests are valid, invalid, completed, or not completed. The report shall be retained for a minimum of three years and must be made available upon request of the executive director.
- (b) If one or both of the two retests specified in item 4.a. demonstrates significant lethality, the permittee shall submit the failing test results to the Water Quality Assessment Section, MC-150, within 20 days of test completion of the second retest, for evaluation to determine if further action is required. Test completion is defined as the 24th hour.

### Section D. Storm Water Pollution Prevention Plan

#### 1. General Requirements

- (a) A storm water pollution prevention plan (SWP3) must be prepared and implemented for each facility covered by this permit that discharges storm water associated with industrial activities. The plan must address, at a minimum, the drainage areas and the discharges from and the activities that occur within areas where vehicle and equipment maintenance occurs. The SWP3 shall identify potential sources of pollution that may reasonably be expected to affect the quality of discharges of storm water associated with industrial activities. In addition, the SWP3 must describe and ensure the implementation of practices that are to be used to reduce the pollutants in these discharges to assure compliance with the terms and conditions of this permit. Facilities must implement the provisions of the SWP3 as a condition of this permit.
- (b) Signature of the SWP3 - The SWP3 must be signed according to 30 TAC Section 305.128 (relating to Consolidated Permits).
- (c) Notice of Non-Compliance - The executive director may notify the permittee at any time that the SWP3 does not meet one or more of the minimum requirements of this permit. Within 30 days of receiving such notification and identification of the provisions of the permit that are not being met by the SWP3, the permittee shall make the required changes to the SWP3, and submit to the executive director a written certification that the changes have been made.

- (d) Revisions of the SWP3 - The permittee shall revise the SWP3 whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the potential for the discharge of pollutants or if the SWP3 proves to be ineffective in eliminating or significantly minimizing pollutants in the discharge of storm water associated with industrial activities.

2. Minimum Storm Water Pollution Prevention Plan (SWP3) Requirements

- (a) Pollution Prevention Team - The SWP3 shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team responsible for development, implementation, maintenance, and revision of the SWP3.
- (b) Description of Potential Pollutant Sources - The SWP3 shall provide a description of potential sources (activities and materials) that may reasonably be expected to affect the quality of storm water discharges, or that may result in a dry-weather discharge. The following must be developed, at a minimum, in support of developing this description.
  - (1) Drainage - A site map indicating the location of:
    - (i) each point of discharge (outfall) for discharges of storm water associated with industrial activities;
    - (ii) a depiction of the drainage area and the direction of flow to the outfalls;
    - (iii) structural controls (i.e. ponds, vegetated buffers, and constructed storm water pollution controls) within the drainage areas; and
    - (iv) the locations of vehicle and equipment maintenance activities (including fueling, repair, and storage areas for vehicles and equipment scheduled for maintenance).
  - (2) Inventory of Exposed Materials - An inventory must be developed listing materials handled at the site that may be exposed to storm water and that have a potential to affect the quality of storm water discharges authorized under this general permit.
  - (3) Spills and Leaks - A list of significant spills and leaks of toxic or hazardous pollutants that occurred in areas exposed to storm water and that drains to storm water outfalls authorized under this permit must be developed, maintained, and updated.
  - (4) Sampling Data - A summary of existing storm water discharge sampling data must be maintained as a part of the SWP3.
- (c) Measures and Controls - The SWP3 must include a description of management controls to regulate pollutants identified in the SWP3's Description of Potential Pollutant Sources, and a schedule for implementation of the measures and controls. This shall include, at a minimum:
  - (1) Good Housekeeping - Good housekeeping measures shall be developed and implemented to maintain vehicle maintenance related activities in a clean, orderly manner.

- (i) Vehicle and Equipment Storage and Maintenance Areas - The storage of vehicles and equipment awaiting maintenance with actual or expected fluid leaks, and the areas where maintenance activities occur, must be confined to designated areas (delineated on the site map). The SWP3 must describe measures that prevent or minimize contamination of the storm water runoff from these areas. The permittee shall consider the use of drip pans under vehicles and equipment, indoor storage of vehicles and equipment, performing maintenance activities indoors, installation of berms or dikes in storage areas, cleaning pavement surface to remove oil and grease, proper handling and disposal methods for drained fluids, using dry cleanup methods for spills, collecting contaminated storm water from these areas for disposal or treatment, and other equivalent measures.
  - (ii) Fueling Areas - The SWP3 must describe measures to prevent or minimize contamination of storm water runoff from areas where fueling occurs. The facility shall consider covering fueling areas, using dry cleanup methods for spills, collecting contaminated storm water runoff for treatment, or other equivalent measures.
  - (iii) Material Storage Areas - Storage materials must be maintained in good condition so as not to become a source of pollutants to storm water runoff. The SWP3 must describe measures that prevent or minimize contamination of storm water in vehicle and equipment maintenance areas. The permittee shall consider indoor storage of materials, installation of berms or dikes to contain runoff, minimizing runoff in these areas, dry cleanup methods for spills, and collecting contaminated storm water runoff for treatment.
  - (iv) Vehicle and Equipment Cleaning Areas - The SWP3 must describe measures that prevent or minimize contamination of storm water runoff from vehicle and equipment cleaning activities. The permittee shall consider performing these activities indoors, covering the activities, and collecting contaminated storm water for treatment. The permittee shall ensure that process wastewater from these activities is either routed to a permitted treatment works or discharged according to the requirements of an applicable TPDES permit.
- (2) Preventive Measures - A preventive maintenance program shall involve routine inspection and maintenance of storm water management controls (including oil/water separators, catch basins, drip pans, berms, dikes, and other similar controls) as well as inspecting and testing facility equipment and systems to discover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters and ensuring appropriate maintenance and performance of such equipment and systems
  - (3) Spill Prevention and Response Procedures - Areas where potential spills that can contribute pollutants to storm water runoff, and the drainage areas from these locations, shall be identified in the SWP3. Procedures for cleaning up spills shall be identified in the SWP3 and made available to the appropriate personnel.

- (4) Inspections - Qualified personnel shall be identified in the SWP3 and shall inspect designated equipment and vehicle maintenance and storage areas on a quarterly basis, at a minimum. At a minimum, inspections shall include areas where vehicles and equipment are stored awaiting maintenance, fueling areas, vehicle and equipment maintenance areas (both indoor and outdoor areas), material storage areas, and vehicle and equipment cleaning areas. Follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained and be made readily available for inspection upon request.
  - (5) Employee Training - An employee training program shall be developed to educate personnel responsible for implementing any component of the SWP3, or otherwise responsible for storm water pollution prevention, with the provisions of the SWP3. The SWP3 shall identify how often employee training shall occur, but it must occur on an annual basis at a minimum.
  - (6) Record Keeping and Internal Reporting Procedures - A description of spills, along with other information that is captured regarding the quality and quantity of storm water discharges, shall be included in the SWP3. Inspection and maintenance activities shall be documented and records of such activities maintained.
  - (7) Sediment and Erosion Control - The SWP3 shall identify areas that have a high potential for soil erosion, identify structural or vegetative control measures or best management practices to reduce or limit erosion.
  - (8) Management of Runoff - The SWP3 shall contain a narrative consideration for reducing the volume of runoff from vehicle and equipment maintenance areas by diverting runoff, infiltration, detention ponds, retention ponds, reuse of runoff, or otherwise managing runoff.
- (d) Comprehensive Site Compliance Evaluation - Qualified individuals shall conduct a site compliance inspection/evaluation at an interval that is defined in the SWP3, but on an annual basis at a minimum. The evaluation shall include the following.
- (1) Areas draining storm water associated with industrial activities shall be visually examined for evidence of, or the potential for, pollutants entering the drainage system. Measures implemented to reduce pollutants in runoff (including structural controls and implementation of management practices) shall be evaluated to determine if they are effective and if they are implemented in accordance with the terms of this permit and with the permittee's SWP3. A visual inspection of equipment needed to implement the SWP3, such as spill response equipment, shall be made.
  - (2) Based on the results of the evaluation, the following shall be revised as appropriate within 2 weeks of the evaluation: the description of potential pollutant sources identified in the SWP3 (as required in Section D.2.(b) - "Description of Potential Pollutant Sources"); pollution prevention measures and controls identified in the (as required in Section D.2.(c) - "Measures and Controls"). The revisions may include a schedule for implementing the necessary changes.

- (3) A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the SWP3, and actions taken in response to the findings of the evaluation shall be completed and maintained as a part of the SWP3 for at least 3 years from the date of the evaluation. The report shall identify any incidents of noncompliance. Where the report does not identify incidences of noncompliance, the report shall contain a statement that the evaluation did not identify an incidence, and the report shall be signed according to 30 TAC 305.122 (relating to Consolidated Permits).
- (4) The Comprehensive Site Compliance Evaluation may substitute for one of the required inspections delineated in Section D.(4) ("Inspections") of this general permit.

#### **Section E. General Requirements**

1. Mixing zones shall not encompass an intake for a domestic drinking water supply, and the discharge may never be located within 300 feet of the intake for a domestic drinking water supply.
2. Discharges shall be conducted so there is no danger of pollution to private or public water wells.
3. There shall be no discharge of floating solids or visible foam other than in trace amounts, and no discharge of visible oil.
4. The discharge shall not contain a concentration of taste or odor producing substances that interferes with the production of potable water by reasonable water treatment methods, impart unpalatable flavor to food fish, including shellfish, result in offensive odors arising from the receiving waters, or otherwise interfere with reasonable uses of water in the state.
5. Solid wastes, including clean-up wastes, shall be disposed of according to TCEQ rules and Chapter 361 of the Texas Health and Safety Code.
6. The disposal of waste and wastewater shall be done in such a manner as to prevent nuisance conditions.
7. The permittee shall provide the following noncompliance notifications:
  - (a) Any noncompliance which may endanger human health or safety, or the environment shall be reported by the permittee to the TCEQ. Report of such information shall be provided orally or by facsimile transmission (FAX) to the Regional Office within 24 hours of becoming aware of the noncompliance. A written submission of such information shall also be provided by the permittee to the Regional Office and the Enforcement Division (MC 224) within five working days of becoming aware of the noncompliance. The written submission shall contain a description of the noncompliance and its cause; the potential danger to human health or safety, or the environment, the period of noncompliance, including exact dates and times; if the noncompliance has not been corrected, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance and to mitigate its adverse effects.

- (b) In addition, any effluent violation which deviates from the permitted effluent limitation by more than 40% shall be reported by the permittee in writing to the Regional Office and the Enforcement Division (MC 224) within 5 working days of becoming aware of the noncompliance.
- (c) Any noncompliance other than that specified in paragraphs (a) and (b) above, or any required information not submitted or submitted incorrectly, shall be reported to the Enforcement Division (MC 224) as promptly as possible. For effluent limitation violations, noncompliances shall be reported on the approved DMR form.

#### **Part IV. Standard Permit Conditions**

1. The permittee has a duty to comply with all conditions in this general permit. Failure to comply with any condition is a violation of the general permit and the statutes under which the general permit was issued. Any violation may be grounds for enforcement action, for terminating coverage under this general permit, or for requiring a permittee to apply for and obtain either a TPDES individual permit, or a Texas Land Application Permit (TLAP).
2. It is not a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted discharge to maintain compliance with conditions of the general permit.
3. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) installed or used by the permittee to achieve compliance with conditions of the general permit. Proper operation and maintenance also includes adequate laboratory and process controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with conditions of the general permit.
4. The permittee shall furnish any information, at the request of the executive director, that is necessary to determine whether cause exists for revoking, suspending, or terminating authorization under this general permit. The requested information must be provided within a reasonable time frame and in no case later than 30 days from the date of the request.
5. The permittee shall give notice to the executive director before physical alterations or additions to the permitted facility if such alterations would result in a violation of the general permit requirements.
6. Inspection and entry shall be allowed under Chapters 26-28 of the Texas Water Code (TWC); Health and Safety Code §§ 361.032-361.033 and 361.037; and Title 40 of the Code of Federal Regulations (CFR) § 122.41(i). The statement in TWC § 26.014 that commission entry of a regulated entity shall occur in accordance with an establishment's rules and regulations concerning safety, internal security, and fire protection is not grounds for denial or restriction of entry to any part of the regulated entity, but merely describes the commission's duty to observe appropriate rules and regulations during an inspection.

7. Standard monitoring and reporting requirements are as follows:

- (a) samples shall be collected, and measurements shall be taken at times and in a manner so as to be representative of the monitored discharge;
- (b) all samples must be collected according to the latest edition of "Standard Methods for the Examination of Water and Wastewater" (prepared and published jointly by the American Public Health Association, the American Waterworks Association, and the Water Pollution Control Federation), or the Environmental Protection Agency's, "Methods for Chemical Analysis of Water and Wastes" (1979), or the Environmental Protection Agency's, "Biological Field and Laboratory Methods for Measuring the Quality of Surface Waters and Effluents" (1973);
- (c) sample containers, holding times, preservation methods, and analytical methods, shall either follow the requirements in 40 CFR Part 136 (as amended), or the latest edition of "Standard Methods for the Examination of Water and Wastewater";
- (d) the permittee shall ensure that properly trained and authorized personnel monitor and sample the discharge;
- (e) the sampling point must be downstream of any treatment unit or technique;
- (f) monitoring results shall be provided at the intervals specified in the permit on an approved DMR (EPA Form 3320-1) that is signed and certified as required by Part IV.8. Unless otherwise specified, the self-report form shall be submitted on a monthly basis to the TCEQ's Enforcement Division (MC 224). The self-report form for any given month shall be due by the 20<sup>th</sup> day of the following month for each discharge which is described by this permit whether or not a discharge is made for the month. If noncompliance with a discharge limitation occurs, the permittee shall provide notification according to Part III.E.7.
- (g) the permittee shall retain all records related to the application, monitoring, or certification for a period of three years from the date of termination of the discharge. This period may be extended at the request of the executive director; and
- (h) records of monitoring activities must include:
  - (1) date, time, and place of sample or measurement;
  - (2) identity of individual who collected the sample or made the measurement;
  - (3) date of laboratory analysis;
  - (4) identity of the individual and laboratory who performed the analysis;
  - (5) the technique or method of analysis; and
  - (6) the results of the analysis or measurement.



TPDES General Permit TXG340000

8. All NOIs, NOTs, and NOCs shall meet the requirements of 30 TAC § 305.44(a) (relating to Signatories to Applications). All reports requested by the executive director shall meet the requirements of 30 TAC § 305.128 (relating to 128 Signatories to Reports).
9. Authorization under this general permit may be suspended or revoked for the reasons stated in 30 TAC § 205.4. Notifying the TCEQ of planned changes or an anticipated noncompliance does not stay any general permit condition.
10. This general permit does not convey any property rights of any sort, or any exclusive privilege.
11. If the permittee becomes aware that it failed to submit any relevant facts in an NOI, or submitted incorrect information in an NOI or in any report to the executive director, it shall promptly submit such facts or information.
12. The permittee is subject to administrative, civil, and criminal penalties, as applicable, under TWC §§ 7.051, 7.101, 7.148, and 7.149 for violations including, but not limited to, the following:
  - (a) violating Clean Water Act (CWA), Sections 301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in a general permit issued under CWA, Section 402, or any requirement imposed in a pretreatment program approved under CWA, Section 402(a)(3) or 402(b)(8);
  - (b) intentionally or knowingly tampering with, modifying, disabling, or failing to use pollution control or monitoring devices, systems, methods, or practices required [under this permit]; and
  - (c) intentionally or knowingly makes or causes to be made a false material statement, representation, or certification in, or omits or causes to be omitted material information from, an application, notice, record, report, plan, or other document, including monitoring device data, filed or required to be maintained by this permit.

**Part V. Fees**

1. Application Fee - An NOI must include a \$100 application fee. A fee is not required for submission of a NOT or NOC.
2. Annual Water Quality Fee - Facilities having an active authorization on September 1 of each year (have not submitted a NOT prior to this date) will be billed \$500 for the following fiscal year.

## **FACT SHEET AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION**

For proposed Texas Pollutant Discharge Elimination System (TPDES) General Permit No. TXG340000 to discharge into or adjacent to water in the state.

Issuing Office: Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711

Prepared by: Yvonna Pierce  
Wastewater Permitting Section  
Water Quality Division  
(512) 239-6922

Date: August 25, 2006

Permit Action: Reissuance of a TPDES General Permit

### **I. Summary**

The Texas Commission on Environmental Quality (TCEQ) is proposing to issue a general permit authorizing discharges of facility wastewater, contact storm water, and storm water associated with industrial activities into or adjacent to water in the state from petroleum bulk stations and terminals. The permit specifies which facilities may be authorized under this general permit and those which must be authorized by individual permit.

### **II. Executive Director's Recommendation**

The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. It is proposed that the permit be issued to expire five years from date of issuance following the requirements of 30 Texas Administrative Code (TAC) § 205.5(a).

### **III. Permit Applicability and Coverage**

- A. This general permit would authorize the discharge of facility wastewater, contact storm water, and storm water associated with industrial activities into or adjacent to water in the state from petroleum bulk stations and terminals. The permit specifies which facilities may be authorized under this general permit and those which must be authorized by individual permit.
- B. The following discharges are not eligible for general permit coverage.
  - (1) Discharges prohibited by 30 TAC, Chapter 311 (relating to Watershed Protection) and 30 TAC, Chapter 213 (relating to the Edwards Aquifer).
  - (2) New sources or new discharges of the constituent(s) of concern to impaired waters which are not authorized by this permit unless otherwise allowable under 30 TAC, Chapter 305 and applicable state law. Impaired waters are those that do not meet

**Fact Sheet and Executive Director's Preliminary Decision**  
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applicable water quality standard(s) and are listed on the Clean Water Act § 303(d) list. Constituents of concern are those for which the water body is listed as impaired.

Discharges of the constituent(s) to impaired water bodies for which there is a TMDL implementation plan are not eligible for this permit unless they are consistent with the approved TMDL and the implementation plan. The Executive Director may amend this general permit or develop a separate general permit for discharges to these water bodies. For discharges not eligible for coverage under this permit, the discharger must apply for and receive an individual or other applicable general TPDES permit prior to discharging.

- (3) Discharges into or adjacent to water in the state from facilities that are regulated by the Railroad Commission of Texas, including crude oil facilities.
  - (4) Discharges determined by the Executive Director that do not maintain existing uses of receiving waters.
  - (5) Wastewater discharge that would adversely affect a listed endangered or threatened species or its critical habitat. Federal requirements related to endangered species apply to all NPDES and TPDES permitted activities, and site-specific controls may be required to ensure that protection of endangered species is achieved.
- C. Facilities that dispose of wastewater by any of the following practices are not required to obtain coverage under this general permit nor an individual permit:
- (1) Recycling of the wastewater with no resulting discharge into or adjacent to water in the state.
  - (2) Pumping and hauling of the wastewater to an authorized disposal facility.
  - (3) Discharge to a POTW.
  - (4) Underground injection in accordance with 30 TAC Chapter 331.
  - (5) Discharge to above ground storage tanks with no resulting discharge into or adjacent to water in the state.

**IV. Permit Conditions and Effluent Limitations**

- A. Eligible discharges of facility wastewater and storm water associated with industrial activities are subject to the following effluent limitations:

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<u>Parameter</u>	<u>Daily Maximum Limitations</u>	<u>Sample Type</u>	<u>Monitoring Frequency</u>
Flow	Report MGD	Estimate	1/day
Total Petroleum Hydrocarbons	15 mg/l	Grab	1/week (1)(2)
Benzene	0.05 mg/l	Grab	1/week (1)(2)
BETX (3)	0.5 mg/l	Grab	1/week (1)(2)
Lead, total (Interim) (4)	0.25 mg/l	Grab	1/week (2)(5)
Lead, total (Final) (6)	0.10 mg/l (7)	Grab	1/week (1)(2)(5)
Lead total (Final) (6)	0.02 mg/l (7)	Grab	1/week (1)(2)(5)
MTBE (Interim) (4)(8)	Report mg/L	Grab	1/week (2)(9)
MTBE (Final) (8)(6)	0.24 mg/l	Grab	1/week (1)(2)(9)
pH	6.0 -9.0 Std. Units	Grab	1/week (1)(2)

- (1) If compliance with the effluent limitation is demonstrated for a period of two consecutive years, the minimum monitoring frequency may be reduced to once per two weeks upon the permittee's submission of a certification of such compliance. This certification must be made in writing to the TCEQ's Industrial Permits Team (MC 148). If a subsequent noncompliance occurs, the monitoring frequency shall revert to once per week.
- (2) For a discharge consisting solely of contact storm water, the sample must be obtained within 60 minutes after discharge begins.
- (3) The sum of benzene, toluene, ethylbenzene and xylenes.
- (4) Interim limits and/or monitoring requirements are effective beginning upon date of issuance of the general permit and lasting for three years. The interim limits are **only applicable** to existing facilities, as defined in Part I. Definitions, of the general permit. Final limitations apply to all new facilities.
- (5) The monitoring frequency for total lead will be once per year upon the permittee's certification in the Notice of Intent (NOI) that none of the substances stored at the facility include refined petroleum products or petroleum fuels containing lead or lead additives. If at a later date, refined petroleum products or petroleum fuels containing lead or lead additives are stored, the permittee must notify the executive director and the monitoring frequency for total lead will become once per week.

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- (6) Final limits are effective at the time of permit issuance for new facilities as defined in Part I, Definitions of the general permit. Final limits are effective for existing facilities, as defined in Part I, Definitions of the general permit, three years from date of issuance and lasting through permit expiration.
- (7) The final daily maximum effluent limitation for total lead is 0.02 mg/l for discharges in the following counties: Anderson, Angelina, Camp, Cass, Cherokee, Collin, Franklin, Gregg, Hardin, Harrison, Henderson, Hopkins, Houston, Hunt, Jasper, Jefferson, Kaufman, Liberty, Marion, Morris, Shelby, Smith, Titus, Trinity, Tyler, Upshur, Van Zandt, or Wood. For discharges in all other counties in the state, the final limitation is 0.10 mg/l.
- (8) MTBE is methyl tertiary-butyl ether.
- (9) The monitoring frequency for MTBE will be once per year upon the permittee's certification in the NOI that none of the substances at the facility include refined products or petroleum fuels containing MTBE. If at a later date, refined petroleum products or petroleum fuels containing MTBE are found at the facility, the permittee must notify the executive director and the monitoring frequency for MTBE will become once per week.

B. All eligible discharges are subject to the following effluent limitations:

<u>Parameter</u>	<u>Monthly Average Limitations</u>	<u>Daily Maximum Single Grab Limitation</u>	<u>Sample Type</u>	<u>Monitoring Frequency</u>
Arsenic, total	0.1 mg/l	0.3 mg/l	Grab	1/year
Barium, total	1.0 mg/l	4.0 mg/l	Grab	1/year
Cadmium, total (inland waters)	0.05 mg/l	0.2 mg/l	Grab	1/year
Cadmium, total (tidal waters)	0.1 mg/l	0.3 mg/l	Grab	1/year
Chromium, total	0.5 mg/l	2.0 mg/l	Grab	1/year
Copper, total	0.5 mg/l	2.0 mg/l	Grab	1/year
Manganese, total	1.0 mg/l	3.0 mg/l	Grab	1/year
Mercury, total	0.005 mg/l	0.01 mg/l	Grab	1/year

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<u>Parameter</u>	<u>Monthly Average Limitations</u>	<u>Daily Maximum Single Grab Limitation</u>	<u>Sample Type</u>	<u>Monitoring Frequency</u>
Nickel, total	1.0 mg/l	3.0 mg/l	Grab	1/year
Selenium, total (inland waters)	0.05 mg/l	0.2 mg/l	Grab	1/year
Selenium, total (tidal waters)	0.1 mg/l	0.3 mg/l	Grab	1/year
Silver, total	0.05 mg/l	0.2 mg/l	Grab	1/year
Zinc, total	1.0 mg/l	6.0 mg/l	Grab	1/year

- C. All eligible discharges are subject to whole effluent, 24-hour acute toxicity monitoring.

**V. Changes From Existing General Permit**

- A. Additional flexibility is being provided in the reissuance of this general permit by removing SIC Code 5171. This change will allow facilities whose primary SIC code is not 5171, yet operate a petroleum bulk station and terminal, to obtain coverage under this general permit.
- B. The general permit was revised throughout to clarify the application requirements for the owner and operator. The definition of "operator" was revised and a definition for "owner" was included.
- C. Based on an antidegradation review of the general permit by the TCEQ's Water Quality Standards Team, an effluent limitation was added for MTBE. A 3 year compliance period with a "Report" only requirement was included for existing facilities.
- D. Based on an antidegradation review of the general permit by the TCEQ's Water Quality Standards Team, the effluent limitation for total lead was reduced. A 3 year compliance period was included for existing facilities.

**VI. Addresses**

Questions concerning this proposed draft general permit should be sent to:  
Industrial Permits Team  
Wastewater Permitting Section (MC-148)  
TCEQ  
P.O. Box 13087  
Austin, TX 78711-3087  
(512) 239-4671

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Comments regarding this proposed draft general permit should be sent to:

Chief Clerk's Office (MC-105)  
TCEQ  
P.O. Box 13087  
Austin, TX 78711-3087

Supplementary information on this Fact Sheet is organized as follows:

- VII. Legal Basis
- VIII. Regulatory Background
- IX. Permit Coverage
- X. Technology-Based Requirements
- XI. Water Quality-Based Requirements
- XII. Monitoring
- XIII. Procedures for Final Decision
- XIV. Administrative Record

**VII. Legal Basis**

§ 26.121 of the Texas Water Code (TWC) makes it unlawful to discharge pollutants into or adjacent to water in the state except as authorized by a rule, permit, or order issued by the commission. TWC, § 26.027 authorizes the commission to issue permits and amendments to permits for the discharge of waste or pollutants into or adjacent to water in the state. TWC, § 26.040 provides the commission with authority to amend rules adopted under TWC § 26.040 prior to amendment of the statute by House Bill (HB) 1542 in 1997, and to authorize waste discharges by general permit. On September 14, 1998, the TCEQ received authority from the United States Environmental Protection Agency (EPA) to administer the Texas Pollutant Discharge Elimination System (TPDES). The TCEQ and the EPA have signed a Memorandum of Agreement which authorizes the administration of the National Pollutant Discharge Elimination System (NPDES) program to the TCEQ as it applies to the State of Texas. [A provision of the agreement reached between the two agencies in the transfer of this authority requires the commission to either repeal or replace its authorizations by rule, or amend them, as necessary, to meet the requirements of the Clean Water Act, (CWA).]

CWA, §§ 301, 304, and 401 (33 United States Code (USC), §§1331, 1314, and 1341) include provisions which state that NPDES permits must include effluent limitations requiring authorized discharges to: (1) meet standards reflecting levels of technological capability; (2) comply with EPA-approved state water quality standards; and (3) comply with other state requirements adopted under authority retained by states under CWA, § 510, 33 USC, §1370.

Two types of technology-based effluent limitations must be included in the proposed general permit. With regard to conventional pollutants, i.e., pH, biochemical oxygen demand (BOD<sub>5</sub>), oil and grease, total suspended solids (TSS), and fecal coliform bacteria, CWA, § 301(b)(1)(E) requires effluent limitations based on "best conventional pollutant control technology" (BCT). With regard to nonconventional and toxic pollutants, CWA, § 301(b)(2)(A), (C), and (D) requires effluent limitations based on "best available technology economically achievable" (BAT), a standard which

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generally represents the best performing existing technology in an industrial category or subcategory. BAT and BCT effluent limitations may never be less stringent than corresponding effluent limitations based on best practicable control technology (BPT), a standard applicable to similar discharges before March 31, 1989 under CWA, § 301(b)(1)(A).

Frequently, EPA adopts nationally applicable guidelines identifying the BPT, BCT, and BAT standards to which specific industrial categories and subcategories are subject. Until such guidelines are published, however, CWA, §402(a)(1) requires that appropriate BCT and BAT effluent limitations be included in permitting actions on the basis of the permitting authority's best professional judgment.

**VIII. Regulatory Background**

The TCEQ had adopted a general permit for discharges from petroleum bulk storage terminals, drafted and issued by EPA Region 6, that expired on July 26, 2004. TCEQ now proposes, with the reissuance of this proposed general permit, to continue to authorize these eligible discharges under TPDES general permit TXG340000.

The TCEQ has determined a need to authorize certain activities under a general permit when there are a large number of similar discharges occurring that contain common characteristics. The discharge and disposal of facility wastewater, contact storm water, and storm water associated with industrial activities from petroleum bulk storage stations and terminals occurs in numerous areas across the state, and the character and quality of the wastewater is generally similar. This results in similar effluent limits being imposed in the individual permits that are written for these discharges. Because the wastewater is similar in character and quality across the state, it is feasible to evaluate them for compliance with water quality standards. Where exceptions exist, such as in 30 TAC Chapter 311 related to Watershed Protection, the general permit contains prohibitions from coverage.

The commission was given authority to issue general permits in place of authorizations by rule through legislation, HB 1542, passed during the 75<sup>th</sup> legislative session. Further clarification of this general permit authority was provided in subsequent legislation, HB 1283, passed during the 76<sup>th</sup> legislative session.

**IX. Permit Coverage**

This general permit covers the discharge of facility wastewater, contact storm water, and storm water associated with industrial activities into or adjacent to water in the state by petroleum bulk storage stations and terminals. The permit specifies which facilities may be authorized under this general permit and those which must be authorized by individual permit.

- A. All applicants seeking authorization to discharge under this general permit must submit a completed Notice of Intent (NOI) on a form approved by the Executive Director. Existing discharges authorized under the expiring general permit are required to submit a new NOI within 90 days of issuance of the general permit to continue authorization. The NOI shall include at a minimum the legal name and address of the owner and operator, the facility name



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and address, specific description of the location of the discharge, type of facility or discharges, and the name of the receiving water.

- B. Submission of a NOI is an acknowledgment that the conditions of this general permit are applicable to the proposed discharges and that the applicant agrees to comply with the conditions of the general permit. Provisional authorization to discharge under the terms and conditions of this general permit begins 48 hours after a completed NOI is postmarked for delivery to the TCEQ unless restricted by Part II, Section C.3. of the general permit. The NOI must be submitted by certified mail, return receipt requested, to the address indicated on the NOI form. If TCEQ provides for electronic submittal of NOIs during the term of this permit, provisional authorization begins 24 hours following receipt of the electronic NOI form by the TCEQ unless restricted by Part II, Section C.3. of the general permit. Following review of the NOI, the executive director shall either confirm coverage by providing a notification and an authorization number to the applicant or notify the applicant that coverage under this general permit is denied.
- C. For discharges located in or within ten stream miles upstream of the Edwards Aquifer recharge zone, applicants must submit a copy of their NOI to the appropriate TCEQ regional office. For discharges located in Medina, Bexar, Comal, Kinney, or Uvalde counties, a copy of the NOI must be sent to the San Antonio regional office. For discharges located in Hays, Travis, or Williamson counties, a copy of the NOI must be sent to the Austin regional office.
- D. Coverage under this general permit is not transferable. If the ownership of the regulated entity changes, the present owner and operator must submit a Notice of Termination (NOT) and the new owner and operator must submit a NOI. The NOT and NOI must be submitted concurrently no fewer than 10 days before the change in ownership occurs.
- E. If there is a change in information previously provided in the NOI, the permittee must provide current information to the executive director by submitting a Notice of Change (NOC). The NOC should be submitted no later than 10 days before the change occurs.
- F. A discharger may terminate coverage under this general permit by providing a Notice of Termination (NOT) on a form approved by the executive director. Authorization to discharge terminates at midnight on the day that an NOT is postmarked for delivery to the TCEQ. If TCEQ provides for electronic submission of NOTs during the term of this permit, authorization to discharge terminates 24 hours following confirmation of receipt of the electronic NOT form by the TCEQ. An NOT must be submitted within 14 days after the facility ceases discharging, obtains coverage under an individual permit, obtains coverage under an alternative general permit, or transfers ownership or responsibility of the facility.

**X. Technology-Based Requirements**

The limitations and conditions of the proposed general permit have been developed to comply with the technology-based standards of the Clean Water Act. There are currently no nationally applicable guidelines identifying the BPT, BCT, and BAT standards. Technology-based effluent limitations included in the general permit are based on best professional judgment (BPJ).

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The parameters selected for BCT/BAT limits are the primary pollutants of concern for discharges authorized in the proposed general permit and are benzene, BTEX (sum of benzene, toluene, ethylbenzene, and xylenes), pH, and total petroleum hydrocarbons. The BAT limitations for these parameters are: 0.05 mg/l benzene (as a daily maximum); 0.5 mg/l BTEX (as a daily maximum); between 6 and 9 standard units pH; and 15 mg/l total petroleum hydrocarbons (as a daily maximum). These effluent limitations are economically achievable and are established at levels existing in the current TPDES general permit. Additionally, technology-based effluent limitations are included for arsenic, barium, cadmium, chromium, copper, manganese, mercury, nickel, selenium, silver, and zinc. Numeric effluent limitations for these total metals were established according to 30 TAC Chapter 319 (relating to General Regulations Incorporated Into Permits) and are consistent with the effluent limitations in the current TPDES general permit.

The draft general permit includes requirements to develop and implement a storm water management plan to control discharges of storm water associated with industrial activities. This requirement is limited to storm water runoff from areas of the permitted facility where vehicle maintenance occurs, in accordance with NPDES storm water regulations at 40 CFR Part 122.26 (b)(14)(viii), and as adopted by reference in 30 TAC Chapter 281 (relating to Applications Processing).

**XI. Water Quality-Based Requirements**

The TSWQS found at 30 TAC Chapter 307 state that "surface waters will not be toxic to man, or to terrestrial or aquatic life." The methodology outlined in the "Implementation of the Texas Natural Resource Conservation Commission Standards via Permitting" is designed to insure compliance with 30 TAC Chapter 307. Specifically, the methodology is designed to insure that no source will be allowed to discharge any wastewater which: (1) results in instream aquatic toxicity; (2) causes a violation of an applicable narrative or numerical state water quality standard; (3) results in the endangerment of a drinking water supply; or (4) results in aquatic bioaccumulation which threatens human health.

TPDES permits contain technology-based effluent limits reflecting the best controls available. Where these technology-based permit limits do not protect water quality or the designated uses, additional water quality-based effluent limitations and/or conditions are included in the TPDES permits. State narrative and numerical water quality standards are used in conjunction with EPA criteria and other toxicity data bases to determine the adequacy of technology-based permit limits and the need for additional water-quality based controls. After review by the TCEQ Water Quality Standards Team and the Wastewater Permitting Section, it was determined that the proposed technology-based effluent limits are protective of water quality.

A daily maximum and daily average effluent limit of 0.100 mg/l for total lead has been developed based on the protection for acute freshwater aquatic life toxicity in situations where little or no dilution occurs, and will help ensure that chronic criteria will be protected. Human health criteria is reasonably protected by the proposed lead limit, since rapid dilution (>10:1) is expected for any discharges into waterbodies that are large enough to constitute a public drinking water supply or a sustainable fishery.

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A separate daily maximum effluent limit for total lead has been developed for discharges into the Cypress, Sabine, and Neches river basins. The basis for this decision was that these basins contain water that is soft in comparison to others in the State of Texas and the limit of 0.10 mg/l would not be protective of the environment. The limit for discharges into the Cypress, Sabine, and Neches river basins has been set at 0.02 mg/l.

An effluent limit of 0.24 mg/l for methyl tertiary butyl ether (MTBE) has been established in the proposed general permit for the protection of human health and to protect drinking water taste and odor. A concentration of 0.24 mg/l and 0.015 mg/l are considered protective of human health and drinking water taste and odor respectively. Small discharges into waterbodies which are large enough to constitute a public drinking water supply are expected to experience rapid dilution. The proposed end-of-pipe effluent limitation will provide for sufficient dilution following mixing with receiving waters to ensure that taste and odor criteria are met. Finally, a restriction that the discharge point may not be within 300 feet of a public drinking water supply intake structure is included as a provision of the proposed permit.

Of the specific petroleum products of concern, the Texas Surface Water Quality Standards contain a numeric limit for benzene to protect human health. The applicable instream criteria are 0.005 mg/l for public drinking water sources, 0.106 mg/l to protect freshwater fisheries, and 0.0708 mg/l to protect saltwater fisheries. The proposed general permit specifies an effluent limit of 0.05 mg/l for benzene. This effluent limit is expected to meet water quality standards, including standards for drinking water sources, when typical dilution assumptions are considered.

**XII. Monitoring**

Monitoring requirements were established based on TCEQ rules, TCEQ practice, existing TPDES general permit TXG340000, and BPJ. 40 CFR §122.44(i) requires monitoring for each pollutant limited in a permit to ensure compliance with the permit limits.

**XIII. Procedures for Final Decision**

The memorandum of agreement between the EPA and TCEQ provides that EPA has no more than 90 days to comment, object, or make recommendations to the draft general permit before it is published in the *Texas Register*. According to 30 TAC Chapter 205, when the draft general permit is proposed, notice must be published, at a minimum, in at least one newspaper of statewide or regional circulation. The commission may also publish notice in additional newspapers of statewide or regional circulation. Mailed notice must also be provided to the following:

- A. the county judge of the county or counties in which the discharges under the general permit could be located;
- B. if applicable, state and federal agencies for which notice is required in 40 CFR, §124.10(c);
- C. persons on a relevant mailing list kept under 30 TAC, §39.407, relating to Mailing Lists; and
- D. any other person the executive director or chief clerk may elect to include.

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After notice of the general permit is published in the *Texas Register* and the newspaper, the public will have 30 days to provide public comment on the proposed permit.

Any person, agency, or association may make a request for a public meeting on the proposed general permit to the executive director of the TCEQ before the end of the public comment period. A public meeting will be granted when the executive director or commission determines, on the basis of requests, that a significant degree of public interest in the draft general permit exists. A public meeting is intended for the taking of public comment, and is not a contested case proceeding under the Administrative Procedure Act.

If the executive director calls a public meeting, the commission will give notice of the date, time, and place of the meeting, as required by commission rule. The executive director shall prepare a response to all significant public comments on the draft general permit raised during the public comment period. The executive director shall make the response available to the public. The general permit will then be filed with the commission to consider final authorization of the permit. The executive director's response to public comment shall be made available to the public and filed with the chief clerk at least ten days before the commission acts on the general permit.

**XIV. Administrative Record**

The following section is a list of the fact sheet citations to applicable statutory or regulatory provisions and appropriate supporting references.

- A. 40 CFR Citations
  - 40 CFR §122
  - 40 CFR §124
  - 40 CFR §136

- B. Letters/Memoranda/Records of Communication

Letter to LaDonna Castanuela TCEQ Office of the Chief Clerk from Texas Oil and Gas Association, June 16, 2005.

- C. Miscellaneous

Quality Criteria for Water (1986), EPA 440/5-86-001, 5/1/86.

The State of Texas Water Quality Inventory, 13th Edition, Publication No. SFR-50, Texas Natural Resource Conservation Commission, December 1996.

Texas Surface Water Quality Standards, 30 TAC Sections 307.1 - 307.10 (21 TexReg 9765, 4/30/97).

"Procedures to Implement the Texas Surface Water Quality Standards", Texas Commission on Environmental Quality, January 2003.

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“TNRCC Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits,” TNRCC Document No. 98-001.000-OWR-WQ, May 1998.

TCEQ Rules.

30 TAC Chapters 39, 205, 281, 305, 307, 309, 319, 321, and 331.

## Exhibit B

**EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENTS  
AND EXPLANATION OF CHANGES**

This general permit is proposed under the authority found in Texas Water Code (TWC), §26.040. General Permit Number TXG340000 would renew authorization for surface discharges of facility wastewater, contact storm water, and storm water associated with industrial activities from petroleum bulk stations and terminals (PBSTs) into or adjacent to water in the state.

Prior to issuing a general permit, the Executive Director (ED) of the Texas Commission on Environmental Quality (commission or TCEQ) must comply with TWC, §26.040(d) and 30 Texas Administrative Code (TAC) §205.3(c). Both provisions require the ED to respond to all timely public comments that raise "relevant and material" or "significant" issues. The ED must make these responses publicly available and must file them with the commission's Chief Clerk at least ten days before the TCEQ considers whether to approve the general permit. Accordingly, the ED now files this response to comments (Response) to address concerns raised by the public with regard to a proposed general permit under the Texas Pollutant Discharge Elimination System (TPDES). In certain instances, the general permit was revised in response to comments received.

The Executive Director's Response to Comments.

The Office of Chief Clerk received a timely letter from the Texas Oil and Gas Association (TxOGA). These public comments have prompted changes in the proposed general permit.

**Comments and Responses**

**Comment No. 1:** TxOGA requests that all references to Standard Industrial Classification (SIC) Code 5171 be deleted in the draft permit. TxOGA continues by stating that the original United States Environmental

Protection Agency general permit issued in 1984 did not include SIC Code 5171 and that it was incorrectly inserted into the permit by the TCEQ in the renewal. TxOGA believes that by referencing SIC Code 5171, the permit limits the applicability of the permit and inadvertently excludes petroleum storage and transfer facilities that do not operate under this SIC code.

**Response No. 1:** The ED agrees that the reference of SIC Code 5171 may limit the applicability of the permit and exclude facilities that do not operate under this SIC code. Therefore, the reference to SIC Code 5171 located on the cover page of the draft permit, included in the definition of Storm Water Associated with Industrial Activities, and located in Part II. Section A. Discharges Covered were removed from the permit. The draft permit was renoticed in the *Texas Register* on May 19, 2006 (31 TexReg 4258) and was republished in the *Houston Chronicle* on May 15, 2006. The public notice for the 1999 issuance of TXG340000 (63 FR 41848) states that the listing of petroleum bulk stations and terminals is not intended to be exhaustive, and that other types of entities not listed could also be regulated.

**Comment No. 2:** TxOGA commented that it appears that the TCEQ used the same monitoring parameters for lead and methyl tertiary butyl ether (MTBE) as found in TPDES General Permit TXG830000 for Petroleum Fuel and Petroleum Substances Discharges (remediation systems). TxOGA stated there are significant differences in the discharges from remediation systems and those from PBSTs. Remediation system discharges are continuous while discharges from PBSTs are intermittent. Also, remediation systems commonly have carbon or air stripper treatment prior to discharge, while PBSTs do not. Due to these differences TxOGA states that General Permit TXG340000 should not contain the same limitations for lead and MTBE as General Permit TXG830000.

TxOGA further commented that the lead limits should remain as they are in the existing permit, 0.25 milligrams per liter (mg/L), and that the MTBE limit should be "report only" to allow the industry to collect



data to demonstrate potential compliance or noncompliance with the proposed 0.24 mg/L MTBE limit. The report only requirement would give the facilities time to install controls if needed to meet the newly imposed MTBE limit.

**Response No. 2:** The addition of MTBE in this permit draft and the lower lead limits are based on an antidegradation review of TPDES General Permit TXG830000 by the TCEQ's Water Quality Standards Team. The team recommended a daily maximum limitation of 0.10 mg/L for total lead, except for counties in the Cypress, Sabine, and Neches River Basins. Due to the hardness value (which is used in the calculation of water quality limits) of the receiving streams in these basins, the recommended daily maximum limitation is 0.02 mg/L. The limitations for total lead were calculated using acute criteria which are based on intermittent low volume discharges and therefore, are applicable to the intermittent discharges expected from PBSTs.

The team also recommended a 0.24 mg/L MTBE effluent limit to protect human health and to meet the criteria for drinking water taste and odor. The more sensitive criteria of 0.015 mg/L for taste and odor was allowed a 12 to 1 dilution as would be expected with the allowable effluent fraction which represents the critical mixing zone for water bodies large enough to constitute a drinking water supply as described in the *The Procedures to Implement the Texas Surface Water Quality Standards* (RG-194 (Revised)) dated January 2003.

Because of the nature of the discharge from General Permit TXG340000, which is similar in nature to the discharge allowed by TXG830000, and the similarity in the constituents of concern expected to be found in both discharges, the limitation for MTBE was added to the draft permit and the lead limitation was revised. Based on the addition of these limitations, the Water Quality Standards Team's review of draft General Permit TXG340000, states that "where permit requirements and storm water pollution prevention plans are

properly implemented no significant degradation is expected and existing uses will be maintained and protected."

To address the comment that remediation systems commonly have carbon and/or air stripper treatment in place, a three-year compliance period, as allowed by 30 TAC §307.2(f), has been included for existing facilities to comply with the previously mentioned limitations for total lead and MTBE. The interim effluent limit for total lead will be 0.25 mg/L, the limitation in the existing permit. A report only requirement for MTBE will be required during the compliance period. An existing facility will be defined in the permit as a facility that was in operation prior to the issuance of this permit renewal.